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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,813	05/30/2001	Gary W. Beall	29785/10000	6617

4743 7590 06/10/2003

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EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 06/10/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/867,813

Applicant(s)
Beall

Examiner
Alton Pryor

Art Unit
1616



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 24, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 and 27-36 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 10, 11, 15-18, 20, 21, 23, 25, and 26 is/are rejected.
- 7) ☒ Claim(s) 6, 9, 12-14, 19, and 22 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 1616

Claim Rejection under 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,3,7,8,10,16,20,21,23,25,26 are rejected under 35 U.S.C. 102(b) as being anticipated by Lan et al (EP 846661; 6/10/98). Lan teaches a sorbent composition comprising an intercalate of dodecylpyrrolidone and montmorillonite clay. The intercalant molecule being connected by ion-dipole interaction. Lan also teaches that water (carrier) is added to the sorbent composition. The sorbent can be formulated as a cosmetic to be applied to hair (scalp). It is inherent that the prior art composition would have the cation exchange capacity of at least 75 meq / 100 grams since the prior art composition and the instant composition are the same. It is also inherent that the prior art method of using the composition would deactivate the allergen and reduce the allergic reaction once applied to skin (scalp) since the prior art and instant methods are similar. See abstract, page 3 line 30 - page 4 line 2, page 5 lines 10-27, page 6 lines 11-45, page 7 lines 22-35, page 9 lines 43-57.

Claim Rejection under 35 U.S.C. 103(a)

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1616

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2,4,5,11,15,17,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lan as applied to claims 1,3,7,8,10,16,20,21,23,25,26. Lan teaches all that is recited in claims 2,4,5,11-13,15,17-19 except for the instant amounts of ingredients (surface modifier, solvent, clay). It would have been obvious to one having ordinary skill in the art to determine the optimum amounts of ingredients through routine experimentation. One would have been motivated to do this in order to make a sorbent composition that would effectively reduce the reaction of humans to allergens.

Election

The election of the sorbent composition comprising an alkyl pyrrolidone intercalated with an organic modifier is taught in the prior art. See art rejections above.

Claim Objection / Allowable Subject Matter

Claims 6,9,12-14,19,22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 24,27-36 are allowable. The prior art does not suggest the instant invention comprising the solvents of claims 6,19. The prior art does not suggest the instant invention comprising a synthetic smectite. The prior art does not suggest the invention

Art Unit: 1616

being applied as a salve or aerosol spray. The prior does not suggest the instant invention being applied to clothes, shoes, or pets.

Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.



Alton Pryor

**ALTON N. PRYOR
PRIMARY EXAMINER**

Primary Examiner, AU 1616

6/8/03